



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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EXECUTIVE DIRECTOR

PLANNING DIVISION

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Case #: ZBA # 2013-51
Site: 8 Mount Vernon Street
Date of Decision: August 7, 2013
Decision: Petition Approved with Conditions
Date Filed with City Clerk: August 13, 2013

ZBA DECISION

| | |
|--------------------------------|---|
| Applicant Name: | Fermin Castro & Barbara Schmidt Castro |
| Applicant Address: | 8 Mt. Vernon Street, Somerville, MA 02145 |
| Property Owner Name: | Fermin Castro & Barbara Schmidt Castro |
| Property Owner Address: | 8 Mt. Vernon Street, Somerville, MA 02145 |
| Agent Name: | N/A |

Legal Notice: Applicants and Owners, Fermin and Barbara Castro, seek a Special Permit under SZO §4.4.1 to alter the rear façade, which includes modifications to windows, doors, and the deck, and to remove windows from the left side façade of a nonconforming, two-family dwelling. RB zone. Ward 1.

| | |
|-----------------------------------|----------------|
| <u>Zoning District/Ward:</u> | RB zone/Ward 1 |
| <u>Zoning Approval Sought:</u> | §4.4.1 |
| <u>Date of Application:</u> | July 9, 2013 |
| <u>Date(s) of Public Hearing:</u> | 8/7 |
| <u>Date of Decision:</u> | August 7, 2013 |
| <u>Vote:</u> | 5-0 |

Appeal #ZBA 2013-51 was opened before the Zoning Board of Appeals at Somerville City Hall on August 7, 2013. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one (1) hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143
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DESCRIPTION:

The Applicants propose to alter the rear façade, which includes modifications to windows, doors, and the deck, and to remove windows from the left side façade of a nonconforming structure. These modifications are part of a larger interior renovation plan that adds net square feet to the first floor unit; however, only the proposed exterior modifications require Special Permit approval.

The Applicants propose to remove the bulkhead enclosure from the rear façade and to install a new door that would be flush with the exterior wall. The rear deck would be reconfigured slightly smaller and lead directly down to grade level. The second story window would be removed and replaced with two historically appropriate windows, to be located directly above each of the first floor doors.

Two small square windows on the first floor of the left side (north) façade would be removed, infilled and reshingled to match the existing façade.

FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a Special Permit under §4.4 of the SZO, the Board finds that the alterations proposed would not be substantially more detrimental to the neighborhood than the existing structure. Removing the bulkhead enclosure, altering the locations of windows on the second story of the rear façade, and removing two windows on the left side façade will enhance the structure and reduce the nonconforming nature that currently exists. There will be no impact on the surrounding neighborhood as the windows to be added to the rear façade overlook a parking lot.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to promoting "the health, safety, and welfare of the inhabitants of the City of Somerville; to protect health; to secure safety from fire, panic and other dangers; to provide adequate light and air; to conserve the value of land and buildings; to preserve the historical and architectural resources of the City; to encourage the most appropriate use of land throughout the City; and to preserve and increase the amenities of the municipality."

The proposal is consistent with the purpose of the Residence B district, §6.1.2, which is, "To establish and preserve medium density neighborhoods of one-, two- and three-family homes, free from other uses except those which are both compatible with and convenient to the residents of such districts."

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

The proposal- to remove the bulkhead enclosure, alter window locations on the second story of the rear façade, and remove two windows on the left side façade- are compatible with the neighborhood and surrounding uses. The



proposed rear façade window modifications will enhance the rear façade and be more historically appropriate. As this façade view into the Mt. Vernon Street Restaurant parking lot, adjacent abutters will not be impacted. Removing windows from the left side will then no longer look onto the left adjacent property. .

5. Adverse environmental impacts: The proposed use, structure or activity will not constitute an adverse impact on the surrounding area resulting from: 1) excessive noise, level of illumination, glare, dust, smoke, or vibration which are higher than levels now experienced from uses permitted in the surrounding area; 2) emission of noxious or hazardous materials or substances; 3) pollution of water ways or ground water; or 4) transmission of signals that interfere with radio or television reception.



DECISION:

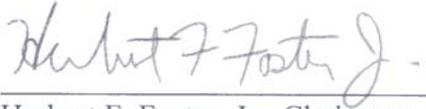
Present and sitting were Members Herbert Foster, Richard Rossetti, Danielle Evans, Elaine Severino, and Brandy Brooks. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **(5-0)** to **APPROVE** the request. In addition the following conditions were attached:

| # | Condition | Timeframe for Compliance | Verified (initial) | Notes | | | | | | | | | | | | |
|---|--|--------------------------|--------------------|-------|---|------------|----------------|--|----------------------------------|------------------------------|-------------------------------------|---|----------------------------------|--|----------------------------------|--|
| 1 | Approval is for a Special Permit to alter the rear façade, which includes modifications to windows, doors, and the deck, and to remove windows from the left side façade of a nonconforming, two-family dwelling. This approval is based upon the following application materials and the plans submitted by the Applicant: | BP/CO | ISD/Plng. | | | | | | | | | | | | | |
| | <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>(July 9, 2013)</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>June 22, 2010 (July 29, 2013)</td> <td>Plot plan submitted to OSPCD</td> </tr> <tr> <td>December 8, 2011 (July 29, 2013)</td> <td>Existing elevations submitted to OSPCD (AX 201, AX202, & AX203)</td> </tr> <tr> <td>July 16, 2011 (July 29, 2013)</td> <td>Proposed elevations submitted to OSPCD (A201 & A202)</td> </tr> <tr> <td>July 16, 2013 (July 29, 2013)</td> <td>Proposed elevation submitted to OSPCD (A203)</td> </tr> </tbody> </table> | | | | Date (Stamp Date) | Submission | (July 9, 2013) | Initial application submitted to the City Clerk's Office | June 22, 2010 (July 29, 2013) | Plot plan submitted to OSPCD | December 8, 2011 (July 29, 2013) | Existing elevations submitted to OSPCD (AX 201, AX202, & AX203) | July 16, 2011 (July 29, 2013) | Proposed elevations submitted to OSPCD (A201 & A202) | July 16, 2013 (July 29, 2013) | Proposed elevation submitted to OSPCD (A203) |
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| Any changes to the approved elevations that are not <i>de minimis</i> must receive SPGA approval. | | | | | | | | | | | | | | | | |
| Design | | | | | | | | | | | | | | | | |
| 2 | An exterior light and electrical receptacle is required for the first (or all) level of the porch and an electrical receptacle is required for the second level (if there is no access to the ground). | Final sign off | Wiring Inspector | | | | | | | | | | | | | |
| Public Safety | | | | | | | | | | | | | | | | |
| 3 | The Applicant or Owner shall meet the Fire Prevention Bureau's requirements. | CO | FP | | | | | | | | | | | | | |
| Final Sign-Off | | | | | | | | | | | | | | | | |
| 4 | The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval. | Final sign off | Plng. | | | | | | | | | | | | | |

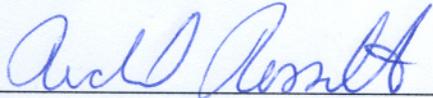


Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Richard Rossetti
Danielle Evans
Elaine Severino
Brandy Brooks (Alt.)



Herbert F. Foster, Jr., Chairman



Richard Rossetti



Danielle Evans



Elaine Severino, (Alt.)



Brandy Brooks (Alt)

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

